

THE REASSESSMENT PROCESS

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I. REASSESSMENT TERMINOLOGY

A. General Reassessment. A revaluation of all real property within a County done on a one, two or four year cycle.

- Visual inspection of all parcels is not required. Perkins v. County of Albemarle. 214 Va. 240. affd 214 Va. 416 (1973).
- "Hotspotting" and "continuous maintenance" are not forbidden as long as they promote uniformity. Perkins v. County of Albermarle.

B. Fair Market Value. The Supreme Court of Virginia has defined the term "fair market value" of a property as "the price which it will bring when it is offered for sale by one who desires, but is not obliged, to sell it, and is bought by one who is under no necessity of having it." Tuckahoe Woman's Club v. City of Richmond. 199 Va. 734 (1958)

C. Highest and Best Use. The phrase "highest and best use" is defined as "the reasonably probable and legal use of vacant or improved property, which is physically possible; appropriately supported, financially feasible, and that results in the highest value." P. 44, Appraisal Institute, The Appraisal of Real Estate 10th Ed. (1992).

II. THE LAW OF TAXATION AND REASSESSMENTS.

A. Power to Tax Real Estate.

1. The Virginia Supreme Court has held that the power to tax is fundamental to the government of localities. Williams v. Richmond. 177 Va. 477 (1941). But Virginia localities have no power to tax unless the power is plainly conferred by the General Assembly, and any such laws are strictly construed against the government and in favor of the taxpayer. Hampton Nissan Ltd. Partnership v. City of Hampton. 251 Va. 100 (1996).
2. The power to tax real estate is conferred upon localities pursuant to Article X of the Virginia Constitution and Section 58.1-3200 of the Code of Virginia.
3. Article X, Section 2 of the Constitution of Virginia and Section 58.1-3201 of the Code of Virginia mandate that all assessments of real estate shall be made "at 100 percent of fair market value. . ."

4. Article X, Section 1 requires that all real property taxes shall be "uniform upon the same class of subjects within the territorial limits of the authority levying the tax. . . "
5. The Supreme Court has held that if it is impractical or impossible to enforce both the standard of true value and the standard of uniformity and equality, the latter provision is to be preferred as the just and ultimate end to be attained. R. Cross Inc. v. City of Newport News, 217 Va. 202(1976).
6. The fundamental rule in assessing all tangible properties for tax purposes is that such properties should be assessed at their highest and best use. Norfolk & W. Ry. v. Commonwealth, 211 Va. 692 (1971).
7. In determining fair market value, "all the capabilities of the property and all the uses to which it may be applied or for which it is adapted, are to be considered. . . ." *Tuckahoe Woman's Club v. City of Richmond*, 199 Va. 734, 738, 101 S.E.2d 571, 574 (1958).

B. Purpose of Reassessments.

1. The purpose of a reassessment is to establish the fair market value for all parcels located within the County and ensure that the assessment of those properties shall be uniform upon the same class of properties within the County.

C. Reassessment Cycles

1. Section 58.1-3252 mandates that a general reassessment be conducted once every four years.
2. Section 58.1-3253 permits biennial or annual reassessments provided that the locality has at least one full-time real estate appraiser or assessor certified by the Tax Commissioner.
3. Section 58.1-3254 permits the governing body of any County to order a general reassessment in any year if ordered by a majority of all the members of the governing body.
4. Section 58.1-3270 provides that the governing body may, with the consent of the Commissioner of Revenue, and by duly adopted resolution provide for the annual or biennial assessment and equalization of real estate by the Commissioner of Revenue.
5. In the interval between reassessments, the value of real estate for tax purposes may not be changed except to reflect: (a) addition of value of improvements; (b) easements; (c) subdivision of

lots; (d) rezoning; (e) division of tract into two or more parcels; (f) transfer or removal of standing timber; (g) completion or substantial completion of new buildings, or repairs or additions to a building increasing its value by \$500 or more; (h) \$100 or more reduction in value of building due to natural decay or other causes; (i) erroneous assessment; or j) changes ordered by the Board of Equalization. Sections 58.1-3351, 58.1-3354, 58.1-3285, 58.13299, 58.1-3309, 58.1-3291-3293, 58.1-3982.

D. Who Conducts the Reassessment

1. Section 58.1-3275 provides that a general reassessment shall be made by (i) a professional assessor appointed by the governing body, certified as qualified by the Department of Taxation; or (ii) a Board of Assessors. Section 58.1-3275.
2. A Board of Assessors may not be less than three members nor more than one member from each magisterial district. Section 58.1-3275.
3. The Board of Assessors is appointed by the Board of Supervisors. Section 58.1-3275.
4. The Board of Assessors must be appointed on or after July 1 in the year immediately preceding in which the general reassessment is required to be made. Section 58.1-3275.
5. A member of the Board of Assessors must be a freeholder in the County. Section 58.1-3276.A
6. Assessors may be removed and replaced by the Board of Supervisors if the Board of Supervisors is satisfied that the assessor will not or from any cause cannot perform his or her appointed duties. Section 58.1-327 6.A.
7. All supervisors, appraisers and personnel employed by the Board of Assessors to perform the reassessment must have the qualifications prescribed by the Department of Taxation for their position. Section 58.13276.B.
8. The Department of Taxation is required to provide the forms necessary to perform the reassessment but County is permitted to create it own forms. Section 58.1-3277.

E. Reassessment Procedure and Practice.

1. Section 58.1-3280 mandates that the assessor or appraiser "as soon as practicable" proceed to ascertain and assess the fair

- market value of all lands and lots assessable, with the improvements and buildings thereon.
2. The assessor or appraiser is required to make a physical examination of the property if "required by the taxpayer, and in all other cases where they deem it advisable." Section 58.1-3280.
 3. Any building which has been increased in value to \$500 or upwards by repairs or additions shall be assessed in the same manner as if they were new. Section 58.1-3292.
 4. New buildings shall be assessed, whether entirely finished or not, at their actual value at the time of the assessment. Section 58.1-3292.
 5. When from natural decay or other causes a building is wholly destroyed or reduced in value below \$100 the building is no longer to be assessed. Section 58.1-3293.
 6. Where a reduction in value of \$100 or more occurs by reason of violence the building is to be assessed at its present reduced condition. Section 58.1-3293.
 7. The Board of Assessors may require owners of income producing property to furnish statements of the income and expenses for the property over a specified period of time. The owner must certify to the accuracy of the statements. Failure to produce the required statements shall bar the owner from introducing evidence or using in any manner the required but not furnished financial income and expense information in any judicial action.

F. Equalization of Assessments

1. Circuit Court is required to appoint a Board of Equalization which sits for the year following the assessments effective date. Section 58.1-3370.
2. Board of Equalization shall be not less than three nor more than five members who must be residents of the County and a majority must be freeholders in the County. Section 58.1-3374. Thirty percent of the members must be commercial or residential real estate appraisers, other real estate professionals, builders, developers, or legal or financial professionals.

3. Members of the Board of Assessors may not be members of the Board of Equalization. Section 58.1-3374.
4. Board of Equalization members must take a Department of Taxation training course. Section 58.1-3374.
5. The Board of Supervisors fixes the compensation for the members of the Board of Equalization. Section 58.1-3375.
6. The purpose of the Board of Equalization is to equalize real estate assessments in the County, hear complaints of inequities wherein the property owners allege a lack of uniformity in assessment, or errors in acreage or that the property is assessed at more than the fair market value. Section 58.1-3378.
7. The Board of Equalization is to "hear and give consideration to such complaints and equalize such assessments and shall, moreover, be charged with the especial duty of increasing as well as decreasing assessments, whether specific complaint be laid or not, if in its judgment, the same be necessary to equalize and accomplish the end that the burden shall rest equally upon all citizens of such County. Section 58.1-3379.
8. The Commissioner of Revenue, when requested, shall attend all meetings and shall call attention to the Board of any inequalities in the real estate assessments as shall be known to him. Section 58.1-3379.
9. The Board of Equalization may, but is not required to, go upon and inspect real estate subject to equalization by it. Section 58.1-3379.
10. The Board of Equalization has the power to summons taxpayers or any other person to (1) furnish information related to real estate; (2) to answer under oath all questions touching ownership and value of real estate; and (3) to bring before it their books of account or other papers and records containing information with regard to the valuation of real estate. Section 58.1-3386.

G. Appeal of Assessments

1. The decisions of the Board of Assessors and the Board of Equalization may be appealed to the Circuit Court. Sections 58.1-3350 and 58.1-3382.
2. Appeals must be taken (i) within three years from the last day of the tax year for which any assessment is made; (ii) within one year from the date of assessment; or (iii) within one year from

the date of the final determination under Section 58.1-3981, whichever is later. Section 58.1-3984.

3. The burden is on the taxpayer to show that the property in question is valued at more than its fair market value or that the assessment is not uniform in its application, or that the assessment is otherwise invalid or illegal. Section 58.1-3984.

4. The Commissioner of Revenue may apply to the circuit court for the correction of assessments which is improper or based upon an obvious error. Section 58.1-3984.

III. TYPICAL REASSESSMENT TIMELINE.

- A. Two years before new reassessment effective date begin procurement process for the procurement of appraisal services.
- B. Eighteen months prior to reassessment effective date let appraisal services contract.
- C. On or after July 15th in the year prior to the year the reassessment is made appoint the Board of Assessors [A maximum of 18 months prior to the reassessment effective date.]
- D. Board of Assessors completes its work.
- E. Not later than October 1st immediately prior to the effective year for the reassessment appoint the Board of Equalization.
- F. Re-assessment effective January 1st.
- G. Reassessment to be complete by December 31st of the year the reassessment is effective.

IV. BOARD OF SUPERVISORS INVOLVEMENT IN THE REASSESSMENT PROCESS.

- 1. The Board of Supervisors determines the timing and type of assessing process. [One, two or four years; in house or by Board of Assessors.]
- 2. The Board of Supervisors lets the contract for reassessment appraisal firms.
- 3. The Board of Supervisors determines the size of the Board of Assessors. [Not less than 3 nor more than 5].
- 4. The Board of Supervisors appoints the Board of Assessors.
- 5. The Board of Supervisors may remove or replace assessors if not satisfied that the assessor will not or from any cause cannot perform his or her appointed duties.

6. The Board of Supervisors sets the compensation for the Board of Equalization.
7. While not required, the Circuit Court has generally accepted the County's suggestions for persons to be appointed to the Board of Equalization.